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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,603	04/06/2000	NICOLA JOHN POLICICCHIO	6873	1426

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EXAMINER	
CARRILLO, BIBI SHARIDAN	
ART UNIT	**PAPER NUMBER**
1746	

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/509,603	POLICICCHIO ET AL.	
	Examiner	Art Unit	
	Sharidan Carrillo	1746	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 September 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 33 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 33 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *08/27/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 33 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a cleaning pad, does not reasonably provide enablement for any absorbent structure. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims.

The claims embrace an invention which contains any known absorbent structure (i.e. textile, fabric, garment, cotton ball, sponge, mop, swab), which could/can be selected from literally thousands. It does not appear to be feasible that any absorbent structure would function in the present invention. Further, for one skilled in the art to reproduce the present invention (which must be possible, if the specification is adequate), there would clearly be undue experimentation to do so in an attempt to figure out which structures work and which ones do not.

3. Claim 33 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The limitations of less than about 5.0% by weight of solvent constitute new

matter, the limitations of which are not supported by the specification, as originally filed. Page 2, second paragraph of the specification teaches about 0.1% to about 5.0% of the level of solvent.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 33 is indefinite because it is unclear what is meant by a cleaning effective amount.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alam et al. (EP0503219) in view of Michael (5538664), Newell (5638569), Kellenberger et al. (5149335) and further in view of Richardson et al. (EP1357323),

Alam et al. teach a method of cleaning a hard surface using a composition comprising 0.04 to 1% of a linear non-aromatic surfactant (pages 2 and 4), an alkanolamine (2-aminomethyl propanol), and up to 1.5% of solvent (page 4). Alam et al. further teaches applying the composition to the surface and wiping the surface with a sponge.

Alam et al. fail to teach the specified pH. Michael teaches a hard surface detergent composition comprising non-ionic detergent surfactant, solvent, and an alkanolamine such as 2-amino, 2-methylpropanol. (col. 5, lines 8-20). In col. 1, lines 25-40, Michael teaches the composition having a pH within the range of 6 to about12.5. Because the composition of Michael is seemingly identical to that of Alam, one would reasonably expect the pH of Alam et al. to be within the range of 6 to about 12. 5.

Additionally, it would have been within the level of the skilled artisan to have adjusted the pH of the composition in order to facilitate improved cleaning.

Alam et al., as modified by Michael fail to teach an absorbent structure having a specified capacity to absorb water. Newell et al. teach a polysurfacial mop head having a superabsorbent head. Col. 10-11 bridging teaches superabsorbent materials such as AQUASORB.

It would have been within the level of the skilled artisan to have provided Alam et al., with the mop of Newell et al., for purposes of providing a mop head having a superabsorbent properties.

Alam et al., as modified by Michael, and Newell fail to teach the specified absorbent capacity as recited in the claim. Kellenberger et al. teach absorbent structures having a capacity for water of at least 15/g/g when measured at a pressure of 0.3 psi (col. 5, lines 40-60). Kellenberger et al. is relied upon as a teaching to show that the absorbent capacity is an inherent chemical property of the conventional absorbent materials in the art. In view of the teachings of Kellenberger et al., one would reasonably expect the absorbent material of Newell et al. to have similar properties.

Alam et al. fail to teach the hydrophilic shear thinning polymer. Richardson teaches liquid cleaning compositions comprising 0.05 to .05% of weight of polysaccharide hydrocolloids, such as xantham gum, for purposes of decreasing the foaming properties of aqueous hard-surface cleaning compositions.

It would have been obvious to a person of ordinary skill in the art to have modified the method of Alam et al., to include the hydrocolloids of Richardson et al., for

purposes of decreasing the foaming properties of aqueous hard-surface cleaning compositions.

10. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Masters et al. (6380151) and further in view of Richardson et al. (EP1357323).

Masters et al. teach a detergent composition for use with a cleaning pad comprising an effective amount of superabsorbent material. Masters teaches a composition comprising 0.01% of surfactant, less than about 0.5% of solvent, a pH of more than about 9, (col. 2, lines 50-68), and a superabsorbent material having a capacity for water of at least about 15/g/g, when measured under a confining pressure of 0.3 psi (col. 5, lines 5-15). In col. 14, lines 18-19, Masters et al. teach 2-amino,2-methylpropanol.

In col. 5, lines 40-60, Masters et al. teach the composition further comprising superabsorbent gelling polymers commonly referred to as hydrocolloids, which can include polysaccharides. Masters et al. fail to teach xanthan gum, guar gum, gum Arabic, or pectin.

Richardson teaches liquid cleaning compositions comprising 0.05 to .05% of weight of polysaccharide hydrocolloids, such as xantham gum, for purposes of decreasing the foaming properties of aqueous hard-surface cleaning compositions.

It would have been within the level of the skilled artisan to have modified the method of Masters et al., to include equivalent polysaccharide hydrocolloids, as taught by Richardson et al., for purposes of decreasing the foaming properties of aqueous hard-surface cleaning compositions.

Response to Arguments

11. Applicant argues that the prior art references fail to teach the concentration levels of the individual components recited in the composition. Applicant's arguments are unpersuasive for the reasons set forth above.

12. Applicant argues that the prior art fails to teach minimizing filming/streaking. Applicant's arguments are unpersuasive because they are not commensurate in scope with the instantly claimed invention. Alternatively, if the claims were amended to include the limitations upon which applicant is arguing, the prior art of Michael would be applied for the given teaching.

13. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

14. Applicant argues that the surfactant levels of the composition of Richardson et al. are outside the claimed range. Applicant further argues that it would not be obvious to substitute the 2-amino-2-methylpropanol for the inorganic alkalinity agents disclosed by Richardson et al. Richardson et al. is not the primary reference nor is it relied upon to teach surfactant concentrations and/or substitution of the alkanolamine.

15. In reference to the inherency argument, applicant's arguments are unpersuasive since the secondary reference of Michael is relied upon to teach the pH range.

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gaultier teaches a method for removing a substance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharidan Carrillo whose telephone number is 571-272-1297. The examiner can normally be reached on Monday-Friday, 6:00a.m-2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sharidan Carrillo
Primary Examiner
Art Unit 1746

bsc

SHARIDAN CARRILLO
PRIMARY EXAMINER